

AUG 19 2024

TIMOTHY McGRATH

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA
CASE NO. 24-11344-BKC-AMC

CHAPTER 13 PROCEEDING

In re: Linda Lee Theresa Giaccio
aka Linda T. Giaccio
SS #4046,

Debtor.

*Emergency hearing
Prior to Sheriff
Sale scheduled 8/27*

**PRO-SE DEBTOR'S EMERGENCY MOTION FOR EXPEDITED RE-HEARING
AND RE-CONSIDERATION OF ORDER DISMISSING CHAPTER 13 CASE
PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9024**

COMES NOW, Linda Lee Theresa Giaccio, Chapter 13 Pro-Se Debtor
("Debtor"), respectfully files this her Emergency Motion for Expedited Re-Hearing
and Re-Consideration of Order Dismissing Chapter 13 Case Pursuant to Federal
Rule of Bankruptcy Procedure 9024, and in support thereof states that:

1. That I filed a pro se voluntary Chapter 13 bankruptcy petition on April 19, 2024 in the United States Bankruptcy Court for the Eastern District of Pennsylvania.
2. That my case was ultimately dismissed on July 10, 2024, pursuant to Order Dismissing Chapter 13 case, and said Order states and prohibits me from filing under any chapter of the bankruptcy code or bankruptcy case for a period of two (2) years.
3. That pursuant to Federal Rule of Bankruptcy Procedure 9024, I have fourteen (14) days from date of the entry of the Order dismissing my Chapter 13 case to file the instant Motion.
4. Consequently, to the best of my knowledge, information, and belief, I do not

believe that I am in violation of any bankruptcy court Orders in my prior bankruptcy cases in the United States Bankruptcy Court for the Southern District of Florida, Fort Lauderdale Division.

5. Accordingly, therefore I was eligible to file a Chapter 13 Bankruptcy case in the Eastern District of Pennsylvania, where I currently reside, and have full time employment, and therefore have lived the greater part of one hundred and eighty (180) days in this District.

6. Furthermore, pursuant to the Order of Dismissal, in my prior bankruptcy case on April 12, 2024, in the United States Bankruptcy Court for the Southern District of Florida, that I do believe and it is my position that said case was dismissed without prejudice, and thereby there was no prejudice period in place to prohibit me from filing a Chapter 13 bankruptcy case in this District or the Eastern District of Pennsylvania, and therefore I do not believe I am in violation of any bankruptcy court orders prohibiting me from filing in this District.

7. Furthermore, and in addition, that a review of the docket supporting my current filing reflects that no party during the pendency of my prior Chapter 13 case filed, sought or was granted stay relief prior to the entering of the dismissal of my Chapter case on April 12, 2024.

8. Accordingly, at no time was any party in any of my prior bankruptcy cases been granted stay relief or stay relief in the form of two (2) year prospective stay relief prohibiting me from filing any bankruptcy case under any chapter and in any district, and therefore to the best of my knowledge, and as such, no Order exists, I am not in violation of any prohibition preventing me from filing in this

District.

9. Furthermore, with respect to the Order Extending the Automatic Stay and my prior Chapter 13 case (Case #23-12090-BKC-SMG), reflects that I am only prohibited from filing any further Chapter 13 bankruptcy cases in the Southern District in Florida and therefore does not prohibit me from filing Chapter 13 bankruptcy case in any other district, including the Eastern District of Pennsylvania, nor filing under any other chapter including Chapter 7 of the United States Bankruptcy Code, if I so elected to proceed in such a fashion at a future date.

10. Accordingly, I am not in violation of any prior bankruptcy court orders, nor am I in violation of any prior prejudice periods, and as such, the instant case was properly filed in the Eastern District of Pennsylvania.

11. Furthermore, with respect to my prior serial filings, said cases were never found to be violative of any court Order or filed in “bad faith”, and with said cases having been filed in “good faith” under “good faith” reasons or basis for each of the respect of filings, and should not be reasons for this Court to dismiss the instant Chapter 13 case.

12. Furthermore, with respect to my prior bankruptcy case, I do not believe that the instant bankruptcy case as filed in the Eastern District of Pennsylvania was filed in “bad faith”, as I believe that I have had a significant change of financial circumstances since my prior case in the United States Bankruptcy Court for the Southern District of Florida in the form of increased wage employment income, which would warrant or allow me to proceed with a new bankruptcy case in the Eastern District of Pennsylvania.

13. Furthermore, this matter is brought on an emergency basis and request for such and expedited hearing on the grounds and basis that although the Pro Se Debtor has initially been scheduled a hearing date of August 28, 2024, regarding the instant Motion and relief, the Pro Se Debtor is seeking, alternatively the foreclosure sale in the state court in the matter styled, M&T Bank, Plaintiff vs. Linda Giaccio, Defendant, CACE 17-000304(11), as pending in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida is scheduled one day earlier or August 27, 2024, and as such, the urgent need for a hearing on this matter prior to the scheduled foreclosure sale date in state court, again scheduled for August 27, 2024. A true and correct copy of the Order Rescheduling Foreclosure Sale in the state court matter is attached hereto as Exhibit "A", and is incorporated herein.

WHEREFORE, I, Linda Giaccio, Pro Se Debtor, respectfully requests an Order Vacating Order Dismissing Chapter 13 Case as entered on July 10, 2024, upon the underlying Motion being timely, as well as, based on the foregoing grounds or basis, that my current bankruptcy case should not be dismissed, as again, I do not believe that I am in violation of any bankruptcy court orders, at any time or any prejudice period, and the grounds to dismiss my case are not warranted at this time. Furthermore, I should be allowed an opportunity to continue to proceed with the instant case, upon the vacating of the aforementioned Order, and again based on the foregoing grounds.

Dated this day of 19th August, 2024


Linda Giaccio, Pro Se Debtor

Exhibit "A"

Filing # 202962553 E-Filed 07/19/2024 09:23:07 PM

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO. CACE17000304 DIVISION: 11 JUDGE: Garcia-Wood, Marina (11)

M&T Bank

Plaintiff(s) / Petitioner(s)

v.

Linda Giaccio, et al

Defendant(s) / Respondent(s)

**ORDER ON PLAINTIFF'S MOTION TO RESET FORECLOSURE SALE AND ISSUE RE-
NOTICE OF SALE**

THIS MATTER having come on to be considered on Plaintiff's Motion to Reset Foreclosure Sale and Issue Re-Notice of Sale, and the Court being otherwise advised in the premises, it is **ORDERED AND ADJUDGED**:

1. The Plaintiff's Motion to Reset Foreclosure Sale and Issue Re-Notice of Sale is hereby **GRANTED**.

2. The Clerk of the Court is directed to sell the property described herein at public sale at 10:00 A.M. on the 27th day of August, 2024, via online auction at www.broward.realforeclose.com, after having given notice as required by Section 45.031, Florida Statutes in accordance with the terms, provisions and conditions otherwise set forth in this Court's Consent Final Judgment entered by the court on January 23, 2019, which was previously rendered in the above-entitled cause.

DONE AND ORDERED in Chambers at Broward County, Florida on 19th day of July, 2024.

Marina Garcia-Wood
CACE17000304 07-19-2024 9:08 AM

CACE17000304 07-19-2024 9:08 AM

Hon. Marina Garcia-Wood

CIRCUIT COURT JUDGE

Electronically Signed by Marina Garcia-Wood

Exhibit "A"

Filing # 203345897 E-Filed 07/25/2024 02:07:52 PM

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.: CACE-17-000304

M&T BANK,
Plaintiff,

vs.

LINDA GIACCIO; UNKNOWN SPOUSE OF
LINDA GIACCIO; CITY OF LIGHTHOUSE
POINT, FLORIDA; AJ'S CONSTRUCTION
GROUP, INC.; UNKNOWN TENANT #1;
UNKNOWN TENANT #2,
Defendant(s).

RE-NOTICE OF SALE PURSUANT TO CHAPTER 45

NOTICE OF SALE IS HEREBY GIVEN pursuant to the order of Consent Final Judgment of Foreclosure dated January 23, 2019, and entered in Case No. CACE-17-000304 of the Circuit Court of the 17TH Judicial Circuit in and for Broward County, Florida, wherein M&T Bank, is Plaintiff and Linda Giaccio; Unknown Spouse of Linda Giaccio; City of Lighthouse Point, Florida; AJ's Construction Group, Inc.; Unknown tenant #1; Unknown Tenant #2, are Defendants, the Office of the Clerk, Broward County Clerk of the Court will sell via online auction at www.broward.realforeclose.com at 10:00 A.M. on the 27th day of August, 2024, the following described property as set forth in said Final Judgment, to wit:

LOT 21, BLOCK 2, OF LIGHTHOUSE MANOR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 43, AT PAGE 42, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

Property Address: 2230 NE 38th Street, Lighthouse Point, Florida 33064

and all fixtures and personal property located therein or thereon, which are included as security in Plaintiff's mortgage.

Any person claiming an interest in the surplus funds from the sale, if any, other than the property owner as of the date of the lis pendens must file a claim before the clerk reports the surplus as unclaimed.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator, Room 20140, 201 S.E. Sixth Street, Fort Lauderdale, Florida 33301, 954-831-7721 at least 7 days before

File No: 16-401131